

# The Normative Agency of Regional Organizations and Non-governmental Organizations in International Peace Mediation\*

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**Abstract:** *This article analyzes the increasingly prominent role of regional organizations (ROs) and non-governmental organizations (NGOs) in promoting norms in mediation processes. In particular, we seek to understand the processes by which RO and NGO mediators promote the inclusivity norm to negotiating parties and the outcomes that result. We employ the concepts of local agency and social practices in examining the normative agency of ROs and NGOs in promoting and redefining the inclusivity norm. Through illustrative case studies of peace processes in South Sudan and Myanmar, we argue that ROs' and NGOs' mediation practices reflect their claims to alternative resources of power, such as long-standing expertise and insider status in the context, and build congruence with strong local norms. We provide nuanced theoretical insights on RO and NGO mediators' claims to agency and provide empirical illustrations on how these claims contribute to constitutive changes to norms.*

**KEYWORDS:** Regional organizations, non-governmental organizations, mediation, norms, agency

## Introduction

In the last ten years, mediators are increasingly expected to promote international norms such as gender equality, democracy, transitional justice, and inclusivity in their interventions (Hellmüller et al. 2015). The publication of the *UN Guidance for Effective Mediation* (United Nations (UN) 2012) was a milestone for this phenomenon. Among these norms, inclusivity, defined as the “extent and manner in which the views and needs of conflict parties and other stakeholders are represented and integrated into the process and outcome of a mediation effort” (UN 2012: 11), has become a buzzword in peacemaking policy (Hellmüller 2019a; Paffenholz and Zartman 2019). This “new inclusion project” rests on the premise that inclusive peace processes contribute to sustainable political settlements (Bell 2019). Research has critically assessed the theoretical and empirical implications of the promotion of inclusivity in peace processes (Donais and McCandless 2017; Hellmüller 2019b; Kmec and Ganiel 2019).

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Around the same time as the rise of inclusivity in mediation, regional organizations (ROs) and non-governmental organizations (NGOs) have become more active in international peace mediation, working alongside the UN and state actors or leading mediation processes. ROs, such as the African Union (AU) and its Regional Economic Communities (RECs), for instance, the Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS), have mediated in Burundi, Comoros, Guinea, Burkina Faso, and Madagascar. NGOs such as the Geneva-based international NGO, Centre for Humanitarian Dialogue, the regional NGO, Centre for Peace and Conflict Studies located in Siem Reap, and the Colombian NGO El Centro de Investigación y Educación Popular (CINEP), have played mediation and facilitation roles in several armed conflicts around the world. Similar to their transnational counterparts, such as the UN and states long engaged in mediation, RO and NGO mediators are increasingly expected to promote inclusive peace processes and outcomes. To distinguish themselves from other mediation actors, ROs and NGOs highlight their relative 'insider status' (Svensson and Lindgren 2013) based on claims of proximity to the conflict, embedded expertise in the context, and long-standing formal and informal channels as their advantage (Shea 2016; Söderbaum 2016; DeMars and Djikzeul 2015; Gartner 2011).

Despite the booming research on promoting inclusivity in mediation, gaps remain unaddressed, two of which serve as this study's take-off point. First, research has focused largely on which mediator strategies and process designs can promote inclusivity, assuming that mediators can implement these strategies. It leaves unquestioned whether mediators have the agency to promote inclusivity in the first place (Hellmüller et al. 2017). Second, the literature on mediation strategies tends to describe mediators as homogenous actors in their analysis, despite diverse actors such as international organizations, states, and non-state actors acting as mediators (See, for example, Bercovitch 2009; Zartman 2008). The institutional effects of specific types of mediators on mediation processes remain understudied (Wallensteen and Svensson 2014).

We aim to fill these gaps in the literature by inquiring, how do RO and NGO mediators promote inclusivity in mediation? To answer this question, we employ the concepts of local agency and social practices. First, local agency captures the active role of members in the context of diffusion that modify the meaning of norms to build congruence with strongly-held norms in their context. This departs from earlier norm diffusion theories that generally highlight the agency of transnational norm entrepreneurs over actors in the local context and traces norms as they travel from the international to the local context but not the modifications to the initial meaning of the norm.

Second, we observe local agency through the concept of social practices (Adler and Pouliot 2011). Practices are "socially meaningful patterns of action," which may "reify background knowledge and discourse in and on the material world" (Adler and Pouliot 2011: 4) or discursively change the meanings of norms (Wiener 2014) depending on the agent performing the practice (Wight 2006). In promoting inclusivity, RO and NGO mediators' local agency can be observed first, in the manner they perform mediation practices, such as process-design, advising, and shuttle-diplomacy, and second, in the effects of such practices on the norm.

Using both concepts, we argue that RO and NGOs' mediators promote inclusivity by performing standard mediation practices (1) that harness alternative sources of power (Lehrs 2016) such as long-standing expertise and insider membership in the context, and

(2) that results in modifying inclusivity's initial meaning to build congruence with strong local norms.

To shed light on local agency, we employ two illustrative case studies that exhibit different empirical manifestations of local agency rather than provide a focused comparison. We examine the mediation in South Sudan of the Intergovernmental Authority on Development (IGAD), the RO in the Horn of Africa, that resulted in the 2015 Agreement on the Resolution of the Conflict in South Sudan (ARCSS) and the mediation activities of the Myanmar-led NGO Euro-Burma Office (EBO) in Myanmar's Nationwide Ceasefire Agreement (NCA) process from 2011-2015. We find that, first, the traits of mediation practices – such as the criteria for accrediting delegations, the substance of advice, and frequency and discretion of meetings – reflected IGAD and EBO's claimed insider status in the conflict context. Second, the meaning of inclusivity at the end of both processes deviated from the liberal meaning of inclusivity and reinforced strongly-held regional or national norms, such as regional ownership in IGAD and ethnonationalism in Myanmar.

We survey the literature on inclusivity and mediation in the first part of this article. In the second part, we develop a conceptual framework to examine the local agency of RO and NGO mediators. In the third part, we employ the conceptual framework in studying the local agency of IGAD and EBO, respectively. We conclude with reflections based on our empirical findings in the last part.

### **Mediators as norm promoters: assessing the literature**

Over the last three decades, the mediation literature has increasingly featured liberal peacebuilding as a conceptual paradigm for analysis (Richmond 2018). Two trends within this shift in the literature are salient in this research, namely, the emergence of the inclusivity norm and the rise of ROs and NGOs as alternative mediators to the UN and states long-engaged in mediation.

On the first trend, international peace mediation has gone from assisting in negotiations for ending hostilities to addressing the root causes of conflict. This expanded understanding of mediation at the international level mirrors the liberal peace paradigm, in which mediators must integrate and conform to increasing international norms (Hellmüller et al. 2015). While the liberal peace theory is widely contested in the critical peacebuilding literature (Paris 2004; Newman et al. 2009; Campbell et al. 2011; Mac Ginty 2011), the normative imperative in liberal peacebuilding is reflected in the mediation literature and policy. This trend has introduced a new role for mediators: the mediator as peacebuilder, and by extension, a promoter of liberal peacebuilding norms.

Inclusivity is the most recent benefactor of the momentum to promote norms in mediation, and mediation research supports the thrust to promote greater inclusivity as an integral part of peace processes. While the inclusion of actors has been a long-standing subject of research by scholars on power-sharing (Lijphart 2007) and constitutional design (Horowitz 2002; Lijphart 2004), research in these areas has focused on competing elites. The repeated failure of these elite arrangements fuelled the push to incorporate a broader set of actors and agenda in peace processes. Thus, the current global script of inclusivity embodies liberal pillars such as representative democracy, the rule of law, humanitarianism, market-based economic reform, and development (Richmond 2006; Palmiano Federer 2019). In this global script, inclusivity means that marginalized, unarmed groups supposedly independent from governments such as civil society (Jewett

2019), women (Zwingel 2012), and youth (Grizelj 2019) get a say in decision-making. Mediation research has explored various process designs, such as multi-track negotiations (Palmiano Federer et al. 2019), national dialogues (Planta et al. 2015; Schmitz 2014; Zyck 2014), and consultative mechanisms (Bell and O'Rourke 2016) to incorporate various groups in mediation processes. Also, strategies to promote inclusivity have been examined, such as capacity-building of marginalized groups (Paffenholz 2014), linking multiple tracks (Jones 2015), and leveraging incentives (Dorussen 2001).

On the second trend, RO and NGO mediators have been increasingly active in recent decades and not only follow the practices of the UN and other states, but claim to offer particular advantages in fostering peace. For ROs, the argument is that RO's positionality makes them suited to managing conflicts within their borders. Geographic proximity and economic, political, cultural, and historical ties have practical implications for how conflicts spread but also how they are resolved within a region (Ikome 2012). These put them at greater risk of spill-over effects, add more costs to withdrawing their engagement, and motivate their longer commitment (Söderbaum 2016), enhancing "the shadow of the future" (Barnett 1995). Moreover, shared identities increase trust (Gartner 2011; Wehr and Lederach 1996), facilitate compromise (ibidem), and allow regional organizations to mediate with the same value system (Söderbaum 2016; Bercovitch and Houston 1996). The frequent face-to-face interaction with high-level officials through regular regional meetings facilitates greater access to regional counterparts than in a larger global venue (Vanhoonacker et al. 2010). Recognizing the comparative advantages of ROs, the UN Charter in Chapter VIII mandates regional organizations to resolve disputes through them before resorting to the UN Security Council (UN 1945). Similarly, the AU enshrines this mandate by promoting the principle of subsidiarity, which puts the primary responsibility for peace and security on regional organizations (AU 2000).

NGO mediators, on the other hand, are non-governmental actors taking on mediative or facilitative functions among the negotiating parties in a peace process. They are increasingly mandated directly by one or both negotiating parties to assist in negotiations towards a peace agreement. In the 1990s, a small number of international NGOs began to professionalize an informal and unofficial approach to mediation by expanding their activities from humanitarian aid to conflict resolution (Kriesberg 2001). Today, international, regional, and national NGO mediators play active and prominent mediation roles in peace processes.<sup>1</sup> NGO mediators often claim insider status as actors with fingers on the pulses of conflict contexts due to long-standing presence on the ground and grassroots-level activities (Lanz et al. 2009). They also refer to their unique knowledge that combines their insider access to key conflict stakeholders and their access to technical expertise from working in multiple contexts (DeMars and Dijkzeul 2015). For instance, NGO mediators can claim to be experts on technical process design (e.g., ceasefires, interim arrangements, and national dialogue structures) or themes (e.g., gender equality, war economies, or human rights) and engage in knowledge transfer between and among different peace process contexts (Convergne 2016).

Despite these trends in the mediation literature, there is a dearth of research on the roles RO and NGO mediators particularly play in the diffusion of inclusivity in mediation. We identify two gaps in particular. First, by focusing on what strategies and process designs can promote inclusivity, current studies largely assume that mediators *can* implement these

<sup>1</sup> While these descriptions refer most prominently to international NGO structures, this article illustrates how the labels between international, regional and national NGOs have become increasingly blurred.

strategies and designs. It leaves unquestioned whether mediators have the agency to promote inclusivity. The inclusivity norm is particularly prone to this assumption in that while mediators are unable to guarantee inclusive outcomes, process-design practices enable mediators at least to propose inclusive processes (Paffenholz 2014; von Burg 2015; Hellmüller 2019b).

Second, in cases where mediator agency has been researched, classical mediation literature tends to describe mediators as homogenous actors in their analysis, despite diverse actors such as international organizations, states, and non-state actors acting as mediators. Grouping these actors undermines the distinct particularities of each mediating actor, particularly given RO and NGO mediators' deliberate attempts to distinguish themselves from others. After Wallensteen and Svensson pointed out the need to study the institutional effects of organizations on mediation processes in 2014, research has only begun to examine specific traits of different mediators, such as the influence of organizational norms on mediation mandates and variation in institutional designs (Pring 2017; Lehrs 2016; Lundgren 2016). Beyond this, however, there has been little research on what specific mediating actors bring to the table and what limitations and strengths one can expect. In particular, RO and NGO mediators assert their insider status and long-standing engagement in the conflict context as distinguishing features vis-à-vis UN and state mediators (Lehti 2018), but what these features actually entail, especially in promoting norms such as inclusivity, remains unexamined.

### **Local agency through distinct traits and effects of mediation practices: An analytical framework for studying RO and NGO mediators**

Delving into the concepts of local agency and social practices from IR theory, we forward the analytical utility of conceptualizing ROs and NGOs as local agents to examine what these claims of insider status and other distinguishing traits bring to bear in their mediation practices and promotion of inclusivity.

#### *The local agency of RO and NGO mediators*

The concept of local agency draws from dynamic models of norm contestation in IR theory, in which norm diffusion occurs through the interaction between agents and the joint production of meaning (Acharya 2004; Wiener 2004; Wolff and Zimmermann 2015). It developed and gained traction in IR as a response to mostly uni-directional conceptualizations of norm diffusion in the first and second “waves” of constructivist norm scholarship (Acharya 2009; another categorization by Bloomfield 2016). The first wave is characterized by North-South, global-to-national transfer of norms by transnational norm entrepreneurs (Finnemore and Sikkink 1998; Risse-Kappen and Sikkink 1999). The second wave examines the influence of the target context but largely treats the norms' meanings as fixed, where successful norm diffusion occurred on account of a cultural match (Price 1998; Checkel 1999). In succeeding works, local agency was developed to analyze the active role of actors in the target context of diffusion in processes of localization and contestation. Thus, norms diffused not only because of pre-given compatibilities between the old and new contexts but also because agents embedded in the target context create such match (Acharya 2009).

While IR norms literature increasingly employs the concept of local agency, its meaning and implications remain under-specified. Local agency has been referred to describe “how

a register of local agents lays claim to emplaced knowledge and grounded experiences and how they claim to be the legitimate representatives of the post-conflict society” (Björkdahl and Gusic 2015:270), while others describe local agents as “situated within a single time zone and marginalized locations,” where they “often resist, redefine, and contextualize the agenda of outside ones and even propose alternatives” when faced with concepts and agendas inconsistent with prior beliefs and practices (Acharya 2012:1). The conceptualization of local agency has also been critiqued. First, using the concept portrays the local in static terms, undermining its dynamism to maintain contrast with the international, romanticizing, and homogenizing it in the process (Mac Ginty 2015). The local is also contested, and with actors that act beyond the imagined boundaries between local, national, and regional (Simons and Zanker 2014; Witt 2018). Second, instead of an exclusive focus on local agency, the concept of norm translation studies the interaction of actors and processes in all spheres. In this process, local agency is only one of many actors in norm translation (Zimmermann 2017; Zimmerman et al. 2018).

Despite these critiques, we see the analytical usefulness of local agency in examining the effects of such insider claims on ROs’ and NGOs’ ways of doing mediation and promoting inclusivity. Mindful of the issues with defining the local, we adopt a pragmatic conceptualization of the local in RO and NGO mediators’ local agency not primarily in terms of spatial location, but in terms of their membership in the normative system that these actors aim to reinforce – national, regional or sub-national normative frameworks – in modifying inclusivity. In this regard, we define local agency as actors’ use of insider claims in promoting and modifying the norm, in this case, inclusivity, to build congruence with other norms strongly-held in the normative system to which they claim to belong.

### *Observing RO and NGO mediators’ local agency through mediation practices*

How can we observe local agency? We argue that local agency can be observed, first, in the manner by which the agent performs practices and, second, in the effects of such practices. These practices can include classical mediator strategies, such as the formulation of joint proposals between warring parties, taking process-related decisions, advising parties on content-related decisions, ensuring outside communication, or creating incentives and disincentives (Mandell and Tomlin 1991; Bluman-Schroeder 2004; Hellmüller et al. 2017).

Adler and Pouliot view practices as “socially meaningful patterns of action, which, in being performed more or less competently, simultaneously embody, act out, and possibly reify background knowledge and discourse in and on the material world” (Adler and Pouliot 2011: 4). Aside from possibly reifying the status quo, practices can also serve as processes of norm contestation, defined as a set of social practices, which discursively change the meanings of norms and agency emerging from and being continually reproduced by practices (Wiener 2014). How these practices are performed and whether they lead to either possibility can be influenced by the agent performing the practice (Wight 2006; Spivak 1996; Jessop 2007).

In line with this, we argue that local agency is reflected, first, in the way practices are performed. Local agents perform these practices in a manner that claims alternative power resources described by Lehrs (2016): (1) knowledge, expertise, and ideas, (2) access and contacts, (3) moral and spiritual authority, and (4) instrumental and tactical power. RO and NGO mediators highlight their strong specific expertise, close ties, insider authority, and mediation styles in the context to which the norm is to be adopted. Using the first

and second power resources, they refer to a history of long-standing activities that enable them to establish assets, material resources, and close networks existing in the receiving context (Barnett 1995; Bartoli 1999). With the third resource, RO and NGO mediators often claim authority as insiders, sharing the views of conflict-affected actors and perceiving their interdependence (Söderbaum 2016; Gartner 2011; Taulbee and Creekmore 2003; Bercovitch and Houston 1996). These actors can use their esteemed status in the history and politics of the context. With the fourth resource, RO and NGO mediators interact with other members in informal and less hierarchical means (Vanhoonacker et al. 2010; Shea 2016) based on claims to a deeper understanding and well-cultivated relationships in the context.

Second, mediation practices by local agents have the effect of changing the meaning of the norm from the intended global normative script to build congruence with norms strongly-held in the local contexts. These effects include, among others, *framing*, highlighting specific aspects of a norm that resonate well with the parties' understanding of the issue (Finnemore and Sikkink 1998), *grafting*, linking the norm being promoted with the parties' pre-existing strongly-held norms (Price 1998), or *pruning*, leaving out selected constitutive elements of the norm to be more congruent with strong norms in the context and more easily accepted by the target audience (Acharya 2009). These effects do not happen in isolation and may come in combination. For example, in the process of highlighting certain actors as part of framing inclusivity, the norm may also be pruned to the exclusion of certain actor types. To summarize, when conceptualized as local agents of the inclusivity norm, RO and NGO mediators promote inclusivity by performing mediation practices in a way that harnesses their claims to alternative power resources such as in-depth knowledge and insider status, and changes the initial meaning by framing, grafting and/or pruning inclusivity to build congruence with the normative order of the context.

## Case studies

In this section, we illustrate how IGAD and EBO perform practices using their insider claims to build congruence with regional and national norms. The selected cases were drawn from the set of mediation processes that were initiated and concluded between 2010 and 2020 (the identified peak of the trend to promote inclusivity) and where RO and NGO mediators assumed lead or focal roles. These two cases were selected as they feature inclusivity as a central issue in the negotiations. We utilized qualitative data drawn from our Ph.D. field research in South Sudan and Myanmar between 2016 and 2018, which generated a total of 200 semi-structured interviews that were triangulated with analysis of official documents and vetted written sources. We narrowed down the data presented in this article to those most salient in illustrating local agency. The empirics provided do not comprise the entirety of norm diffusion in the two contexts, nor were the RO and NGO mediators discussed the only actors promoting inclusivity. For both cases, international actors such as the UN, EU, and states were also involved. However, we observed that they were more the promoters of the global script, while our article's task is explaining changes to this script, which we trace from the local agency of RO and NGO mediators.

### *RO mediators as local agents: IGAD's mediation in South Sudan (2013-2015)*

After its independence from Sudan in 2011, civil war restarted in South Sudan when guards of President Salva Kiir Mayardit began exchanging fire with the guards of then

former Vice President Riek Machar Teny on 15 December 2013. The violence that started among the guards spread throughout the country and quickly took up an ethnic character, killing civilians and reactivating old armed alliances. The geopolitical interests of neighboring IGAD member states were also at stake (Apuuli 2015). Thousands of South Sudanese fled the country and settled in camps along the borders shared with Ethiopia, Kenya, Sudan, and Uganda (UNOCHA 2014).

Asserting their authority in the region, the Heads of State noted the importance of keeping the process within the region as other IGAD member states entwine their peace and security with that of South Sudan: “The decision of IGAD’s involvement in the situation in South Sudan was informed by the fact that the future of the region, peace, and stability of the entire region is indivisible. . . , and its Membership to IGAD (IGAD 2016: 13). Moreover, one of the conflict parties, Pres. Salva Kiir is an IGAD Head of State himself, and the regional organization can engage in dialogue through existing channels among foreign affairs officials and the Heads of State meetings.<sup>2</sup>

On 27 December 2013, the IGAD Heads of State issued the Communiqué of the 23rd Extraordinary Summit on South Sudan and, recognizing the deeper conflict causes beyond the warring personalities, mandated the mediation to conduct inclusive face-to-face talks among stakeholders. They also appointed mediators long-experienced in IGAD and South Sudan, namely, Seyoum Mesfin of Ethiopia, Lazaro Sumbeiywo of Kenya, and Mohammad Al Dhabi of Sudan (IGAD 2013). They are well-known regional personalities that played pivotal roles in IGAD and South Sudan’s history. Mesfin, a stalwart of the Ethiopian ruling party, assisted in negotiating the Declaration of Principles Agreement, paving the way for the 2005 Comprehensive Peace Agreement (CPA) between Sudan and the SPLM, which eventually led to South Sudan’s independence. Sumbeiywo, a retired Kenyan Army Chief of Staff, is considered “the midwife of the CPA” (Gurtong 2007) for mediating that agreement. Al Dhabi was the Sudanese Chief of Intelligence and led operations in then Southern Sudan prior to independence.

After asserting its authority in the region, IGAD used other alternative power resources such as insider knowledge to nuance the accreditation process, informal diplomacy strategies to release the former detainees and hold frequent Summit meetings, and long-standing networks to consolidate international supporters. These practices modified inclusivity to link with regional norms such as the AU Prohibition of Unconstitutional Changes to Government and IGAD regional ownership.

#### *Framing and pruning inclusivity through nuanced accreditation*

Further to the December 2013 mandate, IGAD, together with several donors, organized side events for civil society consultations. They first linked with existing civil society networks, the Citizens for Peace and Justice (CPJ), and the Civil Society Alliance, among others, in a roundtable in Nairobi in March 2014 (IGAD 2016; CPJ 2014). These consultations guided the initial selection for the civil society delegation in the negotiations. At first, invited civil society groups were non-government organizations providing civic and basic services that operate independently (CPJ 2014). However, both government and opposition delegations also nominated their own civil society representatives. Their nominees ranged from individuals that held positions in the government and opposition to civic organizations operating in government- and opposition-held areas that cooperated and developed ties with either conflict party (Centre for Conflict Resolution 2016; Virk

<sup>2</sup> Interview, IGAD Officer 1, 02-07-2016, Addis Ababa.



and Nganje 2016), leading international actors to question their civil society status.<sup>3</sup> In a symposium organized by the mediation in June 2014, the initial civil society representatives from March 2014 were outvoted by government-aligned civil society representatives that comprised a large attendance. The resulting new members of the civil society delegation were mostly government-aligned, sparking protests from the opposition.<sup>4</sup>

IGAD mediation members were divided on whether to accept the revised delegation members. On the one hand, international supporters, the UN, the EU, and the United States, were vocal about their opposition to the aligned members of civil society, as it deviated from expectations of civil society as independent from armed conflict parties.<sup>5</sup> On the other hand, the mediation faced threats of walkouts from the two parties if their nominees were rejected. As a middle ground, the mediation decided to include both the representatives selected in March 2014 and representatives nominated by the government and opposition. Such decision not only kept the conflict parties involved but was based on their knowledge of the context where aligned members of civil society are equally present in South Sudan and the wider Horn of Africa as unaligned civil society organizations envisioned in the liberal peace paradigm.<sup>6</sup> In performing the practice of accrediting civil society participants before the talks, Mesfin's team indicated gender representation, non-partisanship, and technical qualifications (similar to liberal expectations) in combination with geographic representation to cover those from opposition- and government-held areas. To address the divisions within the civil society delegation during negotiation rounds, from July to September 2014, IGAD allowed the delegation to submit three different position papers on a given issue (IGAD 2016) instead of unified statements. IGAD permitted these different versions of civil society on the grounds of knowledge of the context and conflict parties (Akol 2014). IGAD's framing of inclusivity in terms of civil society inclusion highlighted the civic component and technical skills following the liberal script but pruned the expectation for all actors to be independent, deviating from the global script.

*Framing and grafting inclusivity with the AU Prohibition through consolidation and advising* While encouraging the diversification of unarmed actors, the mediation was cautious regarding armed groups' participation. Not only does the inclusion of armed groups deviate from inclusivity's liberal global script, but also such group's arms use and initial demand of ousting the president violate the AU Prohibition of Unconstitutional Changes to Government, which condemns overthrowing a democratically-elected government through violence or unconstitutional means (AU 2000). While the IGAD Heads of State saw the need to mediate and mandate an inclusive peace process, they agreed that condoning this initial demand was out of the question (IGAD 2016).<sup>7</sup> The only armed opposition allowed was led by Machar as a breakaway faction of the government party.

Apart from recognizing only one armed opposition, the mediation also facilitated the participation of unarmed contenders for government, more consistent with the AU

<sup>3</sup> Interview, IGAD Advisor 2, 28-06-2016, Addis Ababa; Interview, US Official, 12-04-2018, Washington DC.

<sup>4</sup> Interview, SPLM-IO Official, 15-03-2017, Juba; Interview, SPLM-IO member, 12-09-2018, Juba.

<sup>5</sup> Interview, US Official, 12-04-2018, Washington DC; Interview, EU Officer 1, 06-08-2016, Skype conversation; Interview, EU Officer 2, 15-05-2018, Addis Ababa.

<sup>6</sup> Interview, civil society representative 1, 20-09-2018, Juba; Interview, SPLM-IO Official, 15-03-2017, Juba; Interview, IGAD Officer 1, 02-07-2016 Addis Ababa; Interview, IGAD Advisor 1, 12-07-2016.

<sup>7</sup> Interview, IGAD Advisor 1, 12-07-2016; Interview, IGAD Advisor 2, 28-06-2016, Addis Ababa

Prohibition. IGAD employed formal and informal contacts to realize the release of key SPLM personalities called the Former Detainees beginning in March 2014. To keep the South Sudanese Government true to its promise to release the detainees (IGAD 2014), the IGAD Heads of State, particularly Kenyan President Kenyatta and Ethiopian Prime Minister Dessalegn, continued to engage in closed-door talks with Kiir, leading to the detainees handover to the Kenyan President's custody. After their release in March and June, the Former Detainees decided not to join either opposition or government delegations but positioned themselves as a separate delegation and contesting government through non-violence (Tekle 2014; Green 2014).

In the practice of consolidating inputs from civil society, former detainees, and opposition, the mediation secretariat incorporated institutional reform ideas in draft agreements but only to the extent that they observe the AU Prohibition.<sup>8</sup> Opposition members also recalled Mesfin and other mediation members advising against positions for removing the government.<sup>9</sup> In grafting inclusivity with the AU Prohibition, the mediation framed inclusivity in terms of the civilian or unarmed component and limited the participation of armed groups and their agenda.

*Pruning and grafting inclusivity with regional ownership through frequent Summit-level meetings and expanded format*

Aside from upholding the AU Prohibition, IGAD faced one more regional obstacle to reaching the 2015 ARCSS, namely, weak regional ownership. Divisions among the Heads of State posed practical challenges to continuing the mediation. IGAD Heads of State, such as Ugandan President Museveni, at times, opposed the mediation's interim outcomes or supported parallel meetings undermining the official mediation (Abdallah 2014; African Arguments 2014; Apuuli 2015). From October 2014 to March 2015, IGAD also faced parallel and conflicting efforts from international donors increasingly doubting the regionally-owned process. The government and opposition delegations maximized these divisions through forum-shopping (Awolich 2015).

Mesfin linked the inclusive, all-South Sudanese process with regional ownership through practices of reporting and donor consolidation, which modified the inclusive process design. The draft agreements from the South Sudan multi-stakeholders negotiations would be discussed at the Extraordinary Meetings of the IGAD Heads of State and Government on the Crisis in South Sudan (IGAD 2016) and, while unifying the IGAD leaders, often resulted in last-minute changes from the Summit (African Arguments 2014). A total of nine Extraordinary Sessions and other mini-summits was convened (IGAD 2016), where Mesfin would report to the IGAD leaders, present recommendations, and engage in closed-door discussions.<sup>10</sup> An exercise of tactical power, frequent Summit-level meetings were considered distinct to the positionality of the three mediators,<sup>11</sup> who were able to convene the Heads of State at such short notice given their direct access to the leaders by phone and other informal means.<sup>12</sup> After uniting, the IGAD Heads of State engaged in a more consistent dialogue with Kiir, who himself was an IGAD Head of State, and discussed outstanding issues as equals.

<sup>8</sup> Interview, IGAD Officer 1, 02-07-2016, Addis Ababa.

<sup>9</sup> Interview, SPLM-IO member, 12-09-2018, Juba; Interview, IGAD Officer 1, 02-07-2016, Addis Ababa.

<sup>10</sup> Interview, IGAD Officer 1, 02-07-2016, Addis Ababa; Interview, US Official, 12-04-2018, Washington DC.

<sup>11</sup> Interview, IGAD Officer 1, 02-07-2016, Addis Ababa; Interview, US Official, 12-04-2018, Washington DC.

<sup>12</sup> Interview, IGAD Advisor 2, 28-06-2016, Addis Ababa.

To address the international community's support to parallel processes and doubts on IGAD's leadership, in March 2015, Mesfin reactivated his network of international donors in the region, built during his term as Ethiopian Minister of Foreign Affairs, and invited them to directly observe and participate in the final discussions with the parties under the IGAD-Plus. While before, international supporters were only allowed to have side meetings in between the official negotiations that often resulted in contradicting side-deals, IGAD-Plus centralized donor leverage and decreased back-channel donor meetings inconsistent with the IGAD negotiations.<sup>13</sup> In grafting inclusivity with regional ownership, IGAD mediators pruned inclusivity's global script by cutting away the final decision-making authority of stakeholders in the conflict and transferring such authority to regional leaders such as the IGAD Heads of State and to the international community.

*NGO mediators as local agents: EBO in Myanmar's NCA negotiations (2011-2015)*

After over seven decades of civil war and failed bilateral ceasefires, the reformist quasi-civilian government of U Thein Sein attempted to launch peace talks with ethnic armed groups (EAGs) in 2011.<sup>14</sup> This new attempt at peace took place in a context of rapid and unprecedented political reform, in which political prisoners were released, and foreign relations resumed after five decades of self-isolation and authoritarian military rule. During these negotiations between over 20 EAGs and the government of Myanmar, the phrase "all-inclusiveness" became a contentious point of deadlock, as it described the political positioning around which EAGs were to be included or not in signing a nationwide ceasefire agreement (NCA). Political inclusion had always been a central theme in Myanmar peace politics, as multiple ethnic nationalities in the border-regions had taken up arms since the country's independence from the British in the name of more inclusive decision-making by the Bamar ethnic majority. Due to the "all-inclusiveness" issue, deadlock persisted between the negotiating parties, and only 8 out of 16 EAGs signed the NCA on 15 October 2015. Since then, EAG-alliances have fragmented, and NCA-negotiated ceasefires are in danger of falling apart. This specific interpretation and use of inclusivity as a strategic positioning tool in negotiations differed from how non-armed actors such as Myanmar women and youth-led civil society organizations used the term, rather as a call for inclusive and participatory peacemaking in line with the global script of inclusivity.

At the same time, Myanmar experienced a gold rush of international embassy staff, diplomats, and NGOs taking advantage of newly opened political spaces (Baechtold 2015). While international donor governments and multilateral institutions provided ample funding for the peace process, western peacemaking actors had little political influence over the process. The negotiating parties preferred to work with Myanmar peacemaking actors with insider status.

This case describes how individuals from EBO, using alternative power resources such as grounded knowledge of the conflict context, access to technical experts; ties to Shan royalty; and influence on the process, modified the global script of inclusivity towards a Myanmar-specific interpretation.<sup>15</sup> In 2012, government chief negotiator Aung Min (seen

<sup>13</sup> Interview, IGAD Officer 1, 02-07-2016, Addis Ababa; Interview, IGAD Advisor 2, 28-06-2016, Addis Ababa.

<sup>14</sup> The use of the term "ethnic" in the Myanmar case draws from discussions of ethnicity as a key identity marker in Myanmar studies and politics - many non-Bamar identity based groups use the self-identifying term of "ethnic nationalities" in Myanmar (see Walton 2008, Callahan and Myo Zaw Oo 2019).

as the *de facto* mediator) directly asked several international NGO mediators to support the negotiating parties.<sup>16</sup> EBO was one of the few NGO mediators to successfully back-channel between EAGs and the Myanmar government in the peace process' early days, citing their insider status, legitimacy, and trust in the eyes of the parties as reasons for their success.<sup>17</sup> EBO presents a distinctive NGO mediator profile in the Myanmar peace process as they blur the lines between international, national, and local dichotomies. EBO's local agency is based on their identity as Myanmar nationals working in an international NGO structure, as well as their unique vantage point of technical expertise on process design and innate knowledge of the Myanmar conflict landscape. EBO was founded by an ethnic Shan prince, who is a former political exile and a significant figure in Myanmar politics. The organization is comprised of a small team of other ethnic, formal political exiles and long-time Myanmar international analysts. It has branches located in Canada, Belgium, Myanmar, and Thailand and was established in 1997 for democracy promotion in response to decades of authoritarian rule.<sup>18</sup> In launching the peace process in 2011, Aung Min asked EBO's founder to return to Myanmar to help bring EAGs into the peace process. After decades in exile in Canada, he was taken off the blacklist and allowed to re-enter the country.<sup>19</sup> In contrast to other international NGO mediators in the same space, the majority of EBO's leadership and staff were Myanmar nationals. They were mandated directly by Aung Min to support all sides of the peace table, possessed insider knowledge of Myanmar's political landscape, and had access to key decision-makers from both sides. In a context where ethnic identity and religion were important identity markers, many EBO staff members were from Myanmar, and all experienced Myanmar's tumultuous political history as well as life in political exile. In addition to these membership claims to the Myanmar political context, EBO leaders were also highly educated. They had access to technical expertise in designing, financing, and implementing ceasefire agreements and peace processes.<sup>20</sup>

*Framing inclusivity through facilitating early talks between warring parties*

In 2011, EBO framed a pragmatic interpretation of inclusivity to armed actors, which entailed bringing certain EAGs into the formal, central peace process. Trying to get EAGs to sign onto a government-led peace process after decades of failed ceasefires and negotiations, EBO framed inclusive dialogue as an important vehicle for sustainable political change.<sup>21</sup> In the pre-negotiation phase, EBO played a central role in facilitating early meetings between the EAGs and the government to broker bilateral ceasefire arrangements between EAGs and the *Tatmadaw*, against a high-stakes backdrop of intense mistrust after decades of failed negotiations. Because of EBO's unofficial work with EAGs since 1992, EBO's founder had the trust of both sides and was able to facilitate informal meetings, many of them across the border in Thailand or in EAG-controlled areas.<sup>22</sup> These often took place discreetly as EAGs officially remained illegal entities under section 17(1) or Myanmar's archaic Unlawful Associations Act (1908) from the British colonial

<sup>16</sup> Interview, regional NGO mediator, 25-09-2018, Skype.

<sup>17</sup> Interview, EBO representative, 15-01-2016, Yangon.

<sup>18</sup> Ibidem.

<sup>19</sup> Ibidem.

<sup>20</sup> Interview, EBO representative, 12-04-2017, phone conversation.

<sup>21</sup> Ibidem.

<sup>22</sup> Interview, EBO representative, 15-01-2016, Yangon.

period. At the start of the process, EBO representatives introduced Aung Min to five EAGs on the Thai border. The parties met, and the first bilateral ceasefire of the Thein Sein administration was signed with the Karen National Union (KNU), one of the most influential EAGs, in January 2012 (Bertrand et al. 2018).

Because of the political significance of the KNU, the peace process gained momentum as more groups signed individual ceasefires. Given the variation between the different armed groups, the EAGs asked EBO to help coordinate a conference between armed groups and regular meetings to promote inter-ethnic coordination. EBO also facilitated intra-ethnic meetings between the armed groups to coordinate their peace plan and advised the groups on how to move forward from ceasefires to a broader political agreement. EBO's facilitative role as a go-between, convening spaces for informal dialogue and trust-building early on in a peace process, promotes the inclusion of armed actors in a dialogue process. As the NGO mediator with insider status conducting informal activities, EBO was able to access both parties. The practice of facilitating pre-talks and advising EAGs to enter into negotiations with the government framed inclusion as fundamental for a legitimate and sustainable peace process: for a sustainable nationwide ceasefire, all armed groups must be represented at the table. As a result of EBO and other first movers (ibidem) in the peace process, the EAGs decided to answer Thein Sein's call to peace, not as individual EAGs, but as a single negotiating bloc of 16 EAGs, the Nationwide Ceasefire Coordinating Team (NCCT). The unprecedented move to negotiate as a political alliance instead of on bilateral terms illustrates a modification to the inclusivity global script: framing inclusivity as the presence of key armed actors at the table rather than non-armed actors such as Myanmar civil society or political parties.

*Grafting inclusivity onto ethnonationalism through advising parties on 'inclusive' process design*

Second, EBO's mediation practices of advising parties and facilitating knowledge exchange on peace process design modified the inclusivity norm by grafting it onto existing normative frameworks of ethnonationalism and national identity in Myanmar (Walton 2008). In the first phase of the peace process, EBO supported the EAGs in designing the framework of the peace process that they presented to the government. EBO helped connect decision-makers and facilitators with technical experts on peace process design, who gave advice on designing national dialogues.<sup>23</sup> To do so, EBO used their self-identification as technical experts whose opinions on such technical and political matters could be trusted (as well as the opinions of the external actors they brought in for advising). One of the first places the word inclusivity appeared in written form in peace process documentation was in 2012, during the development of a founding document called the *Comprehensive Ceasefire and National Framework for Political Dialogue*.<sup>24</sup> While drafting this document, several EAG respondents recalled inviting two international government representatives and a European mediation NGO representative to conduct small informal workshops on peace process design that used particular phrasings of inclusivity.<sup>25</sup>

Through connecting the parties with process design experts promoting inclusivity as a necessary and effective process design element in Myanmar, EBO helped graft inclusivity onto existing normative frameworks around strengthening and uniting ethnic nationalities.

<sup>23</sup> Interview, EBO representative, 12-04-2017, phone conversation.

<sup>24</sup> Interview, Myanmar peace process actor, 05-04-2017, Chiang Mai.

<sup>25</sup> Interview, Myanmar peace process actor, 04-04-2017, Yangon.

Further illustrating the grafting of inclusivity onto ethnonationalism was the formation of the NCCT in 2013 in spite of inter- and intra-ethnic tensions. The NCCT was formed in an unprecedented manner not only to represent the EAGs at the formal talks and play facilitation and technical roles in the peace process but specifically to bolster ethnic unity. A government facilitator commented on the formation of the NCCT as a form of promoting ethnic unity, calling it inclusivity: “From the ethnic side, their experience tells them that they need to be united, you know? Because they are small, they need to bring themselves together [ . . . ]. So this is the issue of inclusivity” (Aung Naing Oo 2018: 86).

*Pruning inclusivity by centering the peace process discourse on armed actors*

Importantly, the framing and grafting of the inclusivity norm in the early stages of the peace process engendered another modification to the global script of inclusivity: pruning the participation of non-armed actors such as women and youth in formal peace process decision-making by centering the prevailing discourse around the inclusion of EAGs as a precursor for peace. As EBO did not act in a vacuum, in the lead-up to the NCA signing, analysis, programming, speeches, and interviews by both national and international analysts portrayed “all-inclusiveness” in two ways: which armed groups sign the NCA *and* which non-armed actors would be included in the current NCA talks (rather than a future political dialogue that the NCA drafters had initially envisioned).<sup>26</sup> Although public consultations and civil society forums for peace took place regularly and throughout many parts of the country, only armed actors such as the *Tatmadaw*, government, and EAGs held seats at the table. While the promotion of the inclusivity norm by international donors, political advisors, and other NGO mediators was also taken up by non-armed actors advocating for greater participation in the NCA process, decision-making around the NCA was ultimately limited to the government, military, and the EAGs. Thus, the practices of EBO modified constitutive elements of the inclusivity norm, away from a broad cosmopolitan interpretation of inclusivity and towards a version congruent with deeply-embedded normative frameworks in the context.

## Conclusion

Two key insights can be drawn from both cases in addressing the question, “how do RO and NGO mediators promote inclusivity in mediation processes?” First, standard mediation practices performed by IGAD and EBO reflected their claims to alternative resources of power, such as in-depth knowledge of the context, long-standing networks, esteemed insider status with actors in the conflict context, and use of informal mediation styles. Second, the version of inclusivity at the end of the observed process deviated from international expectations of inclusivity, as mediator practices modified this norm to reinforce strongly-held regional or national norms.

IGAD modified inclusivity to conform to these regional norms, namely, regional ownership and the AU Prohibition, through practices of accreditation, process-design, consolidation, and Summit-level meetings. The criteria for accreditation, the rules for submitting position papers and consolidation, and the frequency of summit-level meetings reflected their claimed long-standing experiences in South Sudan and the region, as well as insider membership in the region’s elites. Moreover, the promoted meaning of inclusivity deviated from international expectations in three ways. First, while inclusivity’s emphasis

<sup>26</sup> Interview, Myanmar peace process actor, 20-03-2017, Yangon.

on civilian actors is consistent with the liberal peace paradigm, IGAD allowed civil society actors partial to the conflict actors, which differed from liberal expectations of an independent civil society. Second, while IGAD allowed more unarmed actors' inputs, they limited the substance of the inputs by discouraging recommendations ousting a sitting government, upholding the AU Prohibition. The AU norm also guided the mediation's limited engagement with armed groups. Lastly, while multi-stakeholder negotiations produced inclusive drafts, these outputs were subject to the discussion of the IGAD Heads of State, cutting inclusive processes short to bolster regional ownership.

EBO's grounded expertise on the Myanmar political landscape and trust among key actors allowed them to successfully facilitate informal back-channel dialogues between the parties to promote inclusive negotiations between influential EAGs and the government. Though employing local agency through a concrete set of practices, EBO's efforts contributed to constitutive changes to the inclusivity norm away from the global script of inclusivity and towards a specific narrative of EAG-inclusion in the peace process. These changes highlight the contestation processes that occurred to the norm through framing inclusivity as important and grafting it onto strongly-held political narratives around ethnonationalism.

While the above discussion presents two separate case studies, which may limit in-depth comparisons, these cases elucidate the ways RO and NGO mediators perform mediation practices differently from other international mediators. They also highlight the influence of regional or national norms in shaping the meaning of inclusivity in conflict contexts. Whereas the study illustrated the analytical value of local agency and examined diffusion to and from the mediators, future research could examine local agents' interaction with transnational and other normative agents and investigate more multidirectional forms of norm diffusion. Nevertheless, our research offers insights into two gaps in mediation research mentioned earlier. First, employing the concept of local agency, we highlighted key characteristics of RO and NGO mediators, who, while also expected to promote norms prescribed at the international level, bring in their institutional particularities in the process of promotion. Second, our findings show that mediators have normative agency in that their positionality and use of strong norms in the context can help promote inclusivity, albeit with modifications.

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## Data Availability Statement

In addition to the cited literature, data has been collected using confidential interviews with persons affected in conflict. There is no database publicly available, but interview data and analysis are included in the following: Palmiano Federer, J. (2019). "Promoting Peace or Selling Norms? NGO Mediators and all-inclusiveness in Myanmar's Peace Process." Doctoral thesis. Basel: University of Basel. Pring, J. (2020). "Making the Middle: Localizing Inclusivity in the IGAD-led Mediation Process in South Sudan (2013-2015)." Doctoral thesis. Basel: University of Basel.

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